

REMARKS

Claims 1, 5-14, 18-25, 27-31, 33-36, 38-42, 44-47, 49-50 and 52-53 are pending. Only claim 49 has been amended. No new matter has been added.

Claim 49 was objected to because it depended from a canceled claim. Claim 49 has been amended to depend on claim 47. Applicant requests that this objection be withdrawn.

Claims 1, 5-14, 18-25, 27-31, 33-36, 38-42, 44-47, 49-50, 52-53 and 55 are rejected under 35 USC 103(a) as being unpatentable over Benjamin, U.S. Patent No. 6,113,208, in view of Matsuura, U.S. Patent No. 6,363,402. This rejection is respectfully traversed.

The Examiner asserts that Benjamin discloses a management device (printer 1) for managing a print system comprising a data processor (element 10) connected to a network and a printer for executing a print job sent from the data processor via the network, citing Fig. 3. Applicant respectfully disagrees.

Benjamin actually only discloses a printer in Fig. 3. Even if the printer of Benjamin were considered as corresponding to the claimed management device, and Benjamin's host processor were to correspond to the claimed data processor, Benjamin does not disclose a network over which a print job is sent from the data processor to the printer via the network since the data processor is inside Benjamin's printer and thus does not send signals over a network. Thus, Benjamin does not teach that which the Examiner asserts.

The Examiner admits that Benjamin fails to disclose all of claim elements recited after the preamble, but relies on Matsuura as teaching these features, stating that Matsuura, "in the same field of endeavor for updating software programs," teaches all of the claimed features. Applicant respectfully disagrees.

Benjamin and Matsuura are not in the same field of endeavor for updating software programs. Benjamin is directed to replaceable cartridges for printers, where the cartridge may

contain a different version of a printer driver than the one installed in the printer. Matsuura is directed to a method of preventing installation of an application program on a computer, not a printer or a printer cartridge, which is not compatible with the operating system that is currently installed (col. 1, lines 39-43). Since claim 1 recites that the first software program is of a different type than the second software program, it would be contrary to the purpose of Benjamin to modify Benjamin in view of Matsuura because it is necessary that the printer software installed in the printer be of the same type as the software on the replaceable cartridge (which is also printer driver software), or the printer would not function at all. Thus, one of ordinary skill in the art would not have been motivated to modify Benjamin to provide a different software program type on the cartridge than the software type already installed in the printer since the whole purpose of Benjamin is to replace the installed printer driver program with the printer driver program on the cartridge. If one were to replace a printer driver program with a different type of program, the printer would not function.

- With regard to the Examiner's assertions as to what is taught by Matsuura, Applicant disagrees with the Examiner for the following reasons.

Claim 1 requires that both the first and second software programs can be updated. However, Matsuura is only concerned with installing a new version of one of the software programs (understanding that the other software program is actually the operating system itself). If it is determined that the new version of that software program is not compatible with the installed operating system, the new program will not be installed. Matsuura never teaches or suggests that the operating system as well can or should be replaced with a new version of that program.

Accordingly, neither Benjamin nor Matsuura actually teaches that which the Examiner asserts, and even if they did, it would not have been obvious to modify Benjamin in view of Matsuura so as to arrive at the claimed invention. Thus, Applicant requests that the rejection of claim 1 and claims 5-13, which depend from claim 1, be withdrawn.

The remaining independent claims are allowable for the same reasons claim 1 is allowable, as the Examiner has relied on the same rationale in rejecting these claims as he did in rejecting claim 1. The remaining dependent claims are allowable at least due to their respective dependencies. Applicant requests that this rejection be withdrawn.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 325772018400.

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Respectfully submitted,

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